

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

RIVERA ESTEVAN-GOMIO,

Petitioner,

v.

CHARLES DANIELS,

Respondent.

Civ. No. 05-358-TC

ORDER

Aiken, Judge:

Magistrate Judge Coffin issued his Findings and Recommendation in the above-captioned action on April 21, 2005. Magistrate Judge Coffin recommends that the petition for writ of habeas corpus be denied without prejudice and the case be dismissed for failure to prosecute and failure to state a claim. Magistrate Judge Coffin found that the petition failed to comply with the requirements of Local Rule 81.1(a) and ordered petitioner to file an amended petition. Petitioner failed to do so. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Petitioner has filed timely objections to the Findings and Recommendation, although petitioner merely objects to the magistrate judge's authority to issue such findings. Since filing his objections, petitioner has also filed an "ex parte petition" for instant hearing, a "notice" to comply with his petition for writ of habeas corpus, and a motion to voluntarily dismiss his petition. Upon review of Magistrate Coffin's findings and recommendation, I find no error.

THEREFORE, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 10) filed April 21, 2005, is ADOPTED. The Petition for Writ of Habeas Corpus (doc. 20) is DENIED without prejudice, and this case is DISMISSED. All pending motions or requests (docs. 13, 14, and 16) are DENIED as moot.

IT IS SO ORDERED.

Dated this 8 day of June, 2005.

  
Ann Aiken  
United States District Judge